From Karen for the PCP group, May 10, 2004.

1) Are adoptions modified automatically if the federal rule is changed?

No - it's unconstitutional to blanket adopt a federal rule - the state can only adopt rules as they existed at a specified time.

2) Can the state reference a guidance document in rules, instead of going through a rulemaking?

The state can, as long as we specifically adopt a reference document as of a specific date. We can adopt rules establishing criteria for developing a list that would be maintained for a rule, but such a list would not be sufficient to trump a rule.

3) Can Iowa have its own Iowa-specific PCP list in the rules?

Yes, we just need to go through a rulemaking to establish it.

4) Can we get rid of the need for minor source permitting for PCP projects?

Minor sources are not subject to this rulemaking, If there's interest in having the benefits of PCP status for minor sources, then we'd need specific minor source rules to allow that

5) Can we put in a time frame as far as providing responses to whether a project is PCP or not?

You can (like having automatic approval if the DNR doesn't act in a timely manner), but the definition of 'timely manner' or 'complete application' makes it tricky.

6) What is the definition of "proper industry and engineering practices"?

Neither the DNR nor the EPA have any definitions. If that is something the task group wants to address, you'll need to do it yourself.

7) How could companies quickly start construction upon getting agreement that a project is PCP?

Current rules for starting pre-permit construction don't cover PCPs (IAC 567 22.1(1)c(3), since it wouldn't be a synthetic minor.

Pollution Control Projects (PCP)

Question#1: listed projects, incorporate by reference or list in rules?

Response: *The consensus was to incorporate by reference, but to include minor "state-only" departures from the EPA revisions. The group also felt this was an issue applicable to the other workgroups.*

Question #2 - How do we add a new project to the list?

Response: *The consensus of the group was to advocate the addition of "state only" language recognizing the existence of an "Iowa PCP list". The creation of an Iowa PCP list (which would incorporate EPA existing list of six presumptive environmentally beneficial technologies) would allow the Iowa DNR, as the reviewing authority, to add to its list, as long as it determined that a project had been demonstrated in practice to be environmentally beneficial. The Iowa DNR process for potentially adding to its list would be triggered once the Iowa DNR performs a case-specific analysis of a PCP Exclusion and determines that a non-listed technology is environmentally beneficial. If that case-specific PCP Exclusion, when broadly construed,*

maintains its environmentally beneficial character, it may be added to the Iowa PCP list. Iowa DNR would then take appropriate steps to submit a petition EPA, requesting that a non-listed air pollution control technology (which includes pollution prevention or work practices) be determined environmentally beneficial and presumptively qualified for the PCP Exclusion. (see see FR Vol. 67, No. 251, pg. 80239).

Absent approval from EPA on the creation of an "Iowa PCP list" prior to a petition to EPA being granted, the group recommends Iowa DNR create an online "Iowa PCP clearinghouse," containing relevant information on all approved and denied PCP Exclusion requests.

Question #3 - What are the requirements for case specific PCP?

Response: The consensus was to simply use/reference EPA rule language.

Question #4 - What kind of modeling demonstration is required, who does it?

Response: The consensus was to simply use/reference EPA rule language. The presumption was that modeling is only required for significant increases in secondary emissions of a regulated pollutant, and that the applicant bore the burden of making a modeling demonstration. The group agreed that modeling of significant secondary emissions (e.g., to determine whether it is a cause or contributor to a violation of any NAAQS or PSD increment, or adversely impacts an AQRV (such as visibility)), should only be necessary when occurring in areas that are nonattainment, or marginally in attainment, for the pollutant in question. Absent that, modeling by the applicant should not be required.

Question #5 - Modeling for any increase or just significant increase?

Response: The consensus was to simply use/reference EPA rule language. To elaborate, the applicant should only have the burden of modeling significant emission increases in areas that are nonattainment, or marginally in attainment, for the pollutant in question.

Question #6 - What are the monitoring and recordkeeping requirements?

Response: The consensus was to simply use/reference EPA rule language. The group agreed the Iowa DNR should takes steps to avoid any additional notice, permitting, recordkeeping, and reporting requirements not expressly included within the EPA rules. The group also asked Iowa DNR.

Question #7 - What is the level of reduction required for a PCP? 50%?, 90%

Response: The consensus was to simply use/reference EPA rule language. EPA based their decision on what is considered "environmentally beneficial" based upon two listed criteria: (1) the PCP is demonstrated in practice; and (2) its overall effectiveness in reducing emissions of the primary. (see FR Vol. 67, No. 251, pg. 80238).

Question #8 - can you get out of PCP and get regular permits?

Response: The consensus was to simply use/reference EPA rule language. The group could not find a provision that expressly prohibited "getting out of" a PCP exclusion. Common sense dictates though that if a facility wants to drop its use of the PCP Exclusion, it may expose itself to the major NSR permitting requirements and/or possibly new operating conditions related to the collateral or secondary emissions increases.

Clean Unit

Question #1 - what types and levels of investment allowed?

Response: *The consensus was to simply use/reference EPA rule language. EPA has already established a two-part test: (1) the air pollution control technology (which includes pollution prevention or work practices) must be comparable to BACT or LAER; and (2) you must demonstrate that the allowable emissions will not cause or contribute to a NAAQS or PSD increment violation or, or adversely impact an AQVR (such as visibility). (see FR Vol. 67, No. 251, pg. 80223).*

Question #2 - what kind of modeling is required to be comparable to BACT? PTE, actuals?

Response: The consensus was to simply use/reference EPA rule language and have Iowa DNR develop a proposal. Since EPA did not promulgate specific requirements or performance criteria for the "substantially as effective" test, the group is unable to comment on what kind of modeling may be required to demonstrate comparability to BACT/LAER. Rather, EPA defers to the reviewing authorities (e.g., states) whom they believe are in the best position to make this determination. (see FR Vol. 67, No. 251, pg. 80224). The group, therefore, asked Iowa DNR to propose specific requirements or performance criteria for eventual public comment and review.

Question #3 **-** for comparable to BACT how can they apply before 12/31/04 if our rule isn't in place yet?

Response: *The consensus was to simply use/reference EPA rule language. For emission units that have not been through major NSR, EPA rules allow Iowa DNR to provide the applicant with Clean Unit status for emission control that the applicant has already installed and operated. However, EPA final rules also limit the time frame under which Iowa DNR is allowed to make such determinations for Clean Unit status (e.g., that is granted through a SIP-approved permitting process other than major NSR). Iowa DNR will only be able to grant Clean Unit status for previously installed emissions controls if they were installed before the effective date of the program in Iowa. (see FR Vol. 67, No. 251, pg. 80225).*